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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,837	11/10/2000	Robert D. Studdiford	66033-12 (6190-54302)	9281

7590 12/10/2003

Robert D. Becker
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EXAMINER

BAXTER, GWENDOLYN WRENN

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/712,837

Applicant(s)

STUDDIFORD ET AL.

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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This is the fourth office action for serial number 09/712,837, Bicycle Accessory Mounting Apparatus, filed on November 10, 2000. The indicated allowability of claims 1-20 and 30 are withdrawn in view of the following issues presented below. Any inconveniences are regretted.

Specification

All reissue application filed on or after November 7, 2000, the specification, including the claims must be presented in the form of a copy of the printed patent in double column format. See 37 CFR 1.173(c)(1). The entire patent to be reissued should be presented including the cover page. Therefore, the single column format is objectionable and the should be replaced by a substitute specification and claims in compliance with 1.173. See MPEP 1411

Proof of Ownership by Assignee under 37 CFR 3.73(b)

The proof of ownership by assignee under 37 CFR 3.73(b) is improper. This statement must be signed either by someone who has apparent authority to represent the assignee such as the president, vice president or other officer or by anyone provided there is a statement in the 3.73(b) document that the person who has signed the document has been given the authority to represent the assignee. Also, the 3.73(b) statement does not indicate who the assignee is. This must be made clear in the 3.73(b) statement. See MPEP section 324.

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Defective Reissue Declaration.

The reissue declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP section 1414. Applicant must identify specific error(s) to be relied upon. Additionally, specific changes or amendments must be discussed and if new claims are added, their differences from the patent claims must be pointed out. See MPEP section 1414.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-20 and 30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9, 11-14, 16, 19 and 20 of

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compending Application No. 10/301,324. Although the conflicting claims are not identical, they are not patentably distinct from each other. '324 claims a mounting base and cinching or strap member. The mounting base has a first and second ends, a mounting base slot for receiving a cinching member therethrough. Furthermore, the mounting base has a mounting base first curved portion at the first end, a mounting base second curved surface at the second end, and a mounting base left and right slot openings. The cinching member is adapted to slide through the slot and secure first and second objects at the mounting base first and second curved portions, respectively. The cinching member has a fabric strap having a fabric strap first hook portion, a fabric strap first loop portion, a fabric strap second hook portion and a fabric strap second loop portion. The strap includes a fabric strap buckle and is secured to the fabric strap buckle engagement portion functioning to facilitate the securing of the fabric strap. The mounting base is flexible so as to allow the mounting base to deform and has a shore-A hardness of 40-85. The mounting base first and second curved portion having an arcuate surface adapted to engage a surface of a support or accessory.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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Remarks

Applicant has filed a continuation application 10/301,324 filed November 20, 2002. Applicant should clarify his intent to file application 10/301,324 as a continuation of the reissue application 09/712,837. See *In re Graff*, 42 USPQ2d 1471.

If applicant amends the patented claims as a result of any subsequent prosecution such as a double patenting rejection, a supplemental declaration will be required to cover the errors being corrected.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is (703) 308-0702. The examiner can normally be reached Monday-Friday from 8:30 A.M. to 5:00 P.M. Eastern Time Zone.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for this Group is (703) 305-3597.

gb
December 1, 2003

GWENDOLYN BAXTER
PATENT EXAMINER
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